

REMARKS

Applicants have amended claims 5-8, 10, 11 and 13. Thus, claims 1-22 are pending and presented for examination. Applicants appreciate and agree with the Examiners renumbering of the misnumbered claims, now properly numbered as claims 19-22. Applicants respectfully request reconsideration and allowance of the pending claims in view of the foregoing amendments and the following remarks.

Response to Objections to the Drawings:

The Examiner rejected the drawings for not including reference number 30. Attached hereto is replacement drawing sheet 2 of 4 to replace original drawing sheet 2 of 4 and which includes reference number 30 in Figure 4. Applicants therefore respectfully request withdrawal of the objection to the drawings.

Response to Rejections Under Section 112:

The Examiner rejected claim 7, stating that the percentage of zirconia be changed from 50% to 40% due to enablement purposes. While Applicants respectfully consider that the specification, which includes the original claims, is sufficiently enabling for recitation of 50% zirconia in claim 7, Applicants have amended claim 7 thereby mooting the present enablement disagreement.

The Examiner rejected claim 13, requiring that the mole percentage of yttria be changes from 5% to 7%. While Applicants respectfully consider that the specification, which includes

the original claims, is sufficiently enabling for recitation of 7% zirconia in claim 13, Applicants have amended claim 13 thereby mooted the present enablement disagreement.

The Examiner rejected claims 5-8, 10 and 11, requiring that the term "about" be removed. Applicants have amended claims 5-8, 10 and 11 as suggested by the Examiner.

The Examiner rejected dependent claims 6, 8, 11 and 14, stating that "a broad range or limitation together with a narrow range or limitation that falls within the broad range of limitation (in the same claim) is considered indefinite." Applicants respectfully traverse this rejection for two reasons. First, the narrow range disclosed in dependent claims 6, 8, 11 and 14 is not the same claim as the broad claim from which the dependent claims depend. Second, it is inconsistent with the doctrine of claim differentiation to construe or confuse a broader independent claim so that its limitations are the same as a narrower dependent claim (and vice-versa). See, e.g. *Whittaker Corp. v. UNR Industries, Inc.*, 911 F.2d 709 (Fed. Cir. 1990); *United States v. Teletronics, Inc.* 857 F.2d 778 (Fed. Cir. 1988). Applicants therefore respectfully request reconsideration and withdrawal of this indefiniteness rejection to 6, 8, 11 and 14.

Response To Rejections Under Section 102:

Claims 1-4, 12, 13, and 15-17 stand rejected under 35 U.S.C. § 102(e), the Examiner contending that these claims are anticipated by Hui (USPAN 2004/0018409).

Applicants respectfully submit herewith a declaration of prior inventorship under 37 C.F.R. 1.131 to antedate and overcome the Hui reference, which discloses but does not claim Applicants' claimed invention. In view of the 37 C.F.R. 1.131 declaration, reconsideration and withdrawal of the Section 102(e) rejection is respectfully requested.

Response To Rejections Under Section 103:

Claims 9-11 stand rejected under 35 U.S.C. § 103(a), the Examiner contending that these claims are obvious over Hui in view of Clemmer (Met Soc Publication), Cable (USPN 5,589,285), and/or Jension (USPN 5,035,962).

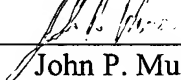
In view of the 37 C.F.R. 1.131 declaration, reconsideration and withdrawal of the Section 103 rejections, each of which rely upon Hui, is respectfully requested.

Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, Applicants respectfully request that the Examiner reconsider the rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d) for total independent claims in excess of 3, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: 6/18/05

By: 
John P. Musone
Registration No. 44,961
(407) 736-6449

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830